



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX – PACIFIC SOUTHWEST REGION
75 Hawthorne Street
San Francisco, CA 94105-3901

SEP 08 2016

VIA CERTIFIED MAIL
No. 7009 2820 0001 8697 3853
RETURN RECEIPT REQUESTED

Terry Donaldson
Director
University of Guam Marine Laboratory
UOG Station
Mangilao, Guam 96923

RE: Request for Information under Clean Water Act Section 308(a) – University of Guam
Marine Laboratory, EPA Docket No. CWA 308-9-16-008

Dear Mr. Donaldson:

Based on our records, the U.S. Environmental Protection Agency, Region IX (“EPA”) has not received discharge monitoring reports (“DMRs”) from the University of Guam Marine Laboratory (“Marine Laboratory”), as required by the National Pollutant Discharge Elimination System Permit, GU0020168 (“NPDES Permit”). The NPDES Permit requires influent and effluent monitoring results to be reported on EPA Form 3320-1, a pre-printed DMR form provided by the EPA Region 9 DMR Coordinator for NPDES. Since October 2012, EPA has not received a significant numbers of DMRs for the Marine Laboratory, and the few received are not on the proper form. The NPDES program operates through discharger self-reporting. Therefore, proper discharge monitoring and reporting is a central tenet to ensuring compliance and elimination of hazards to public health and the environment.

The attached Request for Information will help EPA assess the Marine Laboratory’s compliance with the NPDES Permit. This Request for Information encompasses the monitoring and reporting requirements of the NPDES Permit and covers the time period of October 2012 to the present. Pursuant to the Agency’s information-gathering authority under Section 308 of the Clean Water Act (“CWA”), 33 U.S.C. § 1318, EPA hereby requests that the Marine Laboratory provide the information specified in the attached Request for Information, Attachment 1, **by October 30, 2016.**

Please send your response by certified mail, return receipt requested, to the following addresses:

Fatima Ty
U.S. Environmental Protection Agency, Region IX
Enforcement Division
75 Hawthorne Street (ENF 3-1)

San Francisco, CA 94105

ty.fatima@epa.gov

and

Maricar Quezon

Guam EPA

PO Box 22439

Barrigada, Guam 96923

Maricar.Quezon@epa.guam.gov

SEP 8 0 932

All submittals in response to this letter must be accompanied by the following certification signed by a responsible officer in accordance with 40 C.F.R. § 122.22:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified persons properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The Marine Laboratory may not withhold from EPA any information on the grounds that it is confidential business information. However, EPA has promulgated, under 40 C.F.R. Part 2, Subpart B, regulations to protect confidential business information it receives. A legally supportable claim of business confidentiality may be asserted in the manner specified by 40 C.F.R. § 2.203(b) for all or part of the information requested by EPA. EPA will disclose business information covered by such claim only as authorized by 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies the information at the time EPA receives it, EPA may make it available to the public without further notice.

Failure to comply with this Request for Information can result in enforcement action for appropriate remedy, including penalties, under Section 309 of the CWA, 33 U.S.C. § 1319. Compliance with this Request for Information does not relieve the Marine Laboratory of its obligation to comply with the CWA or other applicable laws and permits.

The Request for Information is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act because it is directed to fewer than ten persons and is therefore not a “collection of information” under 44 U.S.C. § 3502(3). It is also an exempt activity under 44 U.S.C. § 3518(c) and 5 C.F.R. § 1320.4.

Thank you for your cooperation and prompt attention to this letter as it is a matter of public health and protection of vital environmental resources. If you have any questions regarding this Request for Information, please contact Fatima Ty of the Enforcement Division at 415-972-3550 or ty.fatima@epa.gov. Please direct legal questions regarding

this Request for Information to Desean Garnett of the Office of Regional Counsel at 415-972-3046 or garnett.desean@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kath H. Johnson", written in a cursive style.

Kathleen H. Johnson
Director
Enforcement Division

Enclosure

cc (via email): Yvette Cruz, Acting Administrator, Guam EPA

ATTACHMENT 1

Under the authority of Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a), the United States Environmental Protection Agency, Region IX ("EPA") requires the University of Guam Marine Laboratory ("Marine Laboratory") to provide to EPA the information described below ("Request for Information"). This Request for Information in no way alters or relieves the Marine Laboratory of other legal responsibilities or restrictions imposed on operations at the facility at the federal, territory, or local government level.

DEFINITIONS

The following terms shall have the following definitions for this Request for Information:

1. "Document" means all written, recorded, computer generated, or visually or aurally reproduced materials of any kind in any medium in your possession, custody or control or known by you to exist, including all originals, drafts and non-identical copies. The term includes, without limitation, all reports, studies, surveys, plans, transcripts, permits, licenses, deeds, maps, drawings, schematics, specifications, instructions, calculations, monitoring data, rental records, contracts, agreements, bid documents, purchase orders, work orders, invoices, payment records, spreadsheets, communication records, correspondence, notes, memoranda, photographs, and videos.
2. "NPDES Permit" means the National Pollutant Discharge Elimination System Permit No. GU0020168.
3. "Relevant Time Period" is any time occurring from October 1, 2012 to the present day.

REQUEST FOR INFORMATION

Please provide the following documents or information. If no such document or information exist, then please state so explicitly.

1. Provide monthly Discharge Monitoring Reports ("DMRs"), as required by NPDES Permit Part III.C.7, during the Relevant Time Period. The monitoring results shall be reported on EPA Form 3320-1, a pre-printed DMR form. For each DMR, the Marine Laboratory shall indicate the date that it completed the DMR. If the DMR was sent to EPA using the required form prior to receipt of this Request for Information, the Marine Laboratory shall provide evidence of when and how the DMR was sent to EPA.
2. Provide records for effluent monitoring conducted at Outfalls 001 and 002, required by NPDES Permit Parts I.A and III.C, for the Relevant Time Period. Records were required by NPDES Permit Parts III.C.6 and IV.A.1.j(3).

3. If the Marine Laboratory cannot produce DMRs or effluent monitoring records requested in Items 1 and 2 above, provide the following information:
 - a. A list of dates that the Marine Laboratory discharged from its flow-through seawater culturing system through each outfall (Outfalls 001 and/or 002) during the Relevant Time Period; and
 - b. For each day of discharge from Outfalls 001 and/or 002 during the Relevant Time Period, a description of the discharge through each outfall by providing (a) volume, (b) frequency (e.g., intermittent, continuous), and (c) content.
4. Provide the results of any receiving water monitoring conducted by the Marine Laboratory during the Relevant Time Period. NPDES Permit Part III.D.1 required receiving water monitoring on a quarterly basis in the immediate vicinity of the aquaria circulation water discharge from the Marine Laboratory. For each monitoring event, the Marine Laboratory shall indicate the date that it completed the monitoring. If the monitoring data was sent to EPA prior to receipt of this Request for Information, the Marine Laboratory shall provide evidence of when and how the monitoring data was sent to EPA
5. Provide a copy of the Quality Assurance ("QA") Manual required by Permit Part III.C.3-4. The Marine Laboratory shall indicate the date that the QA Manual was completed.
6. Provide a copy of the Standard Operating Plan ("SOP") required by Permit Part III.D.2. The Marine Laboratory shall indicate the date that the SOP was completed.